

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

**CARL VISCONTI**

§  
§  
§  
§  
§  
§  
§  
§

**Plaintiff,**

**v.**

**4:10cv532**

**BANK OF AMERICA**

**Defendant.**

**MEMORANDUM ADOPTING REPORT AND  
RECOMMENDATIONS OF THE UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On August 31, 2012, the report of the Magistrate Judge was entered containing proposed findings of fact and recommendations that Defendant Bank of America, N.A.'s Motion to Dismiss (Dkt. 25) be GRANTED as to Plaintiff's breach of duty, defamation, and Deceptive Trade Practices Act claims and DENIED as to Plaintiff's breach of contract, fraud, promissory estoppel, and Texas Debt Collection Practices Act claims, as well as his request for declaratory judgment.

Having received the report of the United States Magistrate Judge, and no objections thereto having been timely filed, this court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge's report as the findings and conclusions of the court. Therefore, Defendant Bank of America, N.A.'s Motion to Dismiss (Dkt. 25) is GRANTED as to Plaintiff's breach of duty, defamation, and Deceptive Trade Practices Act claims

and DENIED as to Plaintiff's breach of contract, fraud, promissory estoppel, and Texas Debt Collection Practices Act claims, as well as his request for declaratory judgment.

**IT IS SO ORDERED.**

SIGNED this the 28th day of September, 2012.

  
\_\_\_\_\_  
RICHARD A. SCHELL  
UNITED STATES DISTRICT JUDGE